

General Information Letter: Payment of income tax is due no later than the unextended due date of the return, and any payment made later is subject to penalty.

July 13, 2007

Dear:

This is in response to your letter dated May 20, 2007, in which you request abatement of penalty and interest assessed against you as a result of your failure to timely pay your 2001 Illinois income tax liability. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www. tax.illinois.gov](http://www.tax.illinois.gov).

In your letter you have stated the following:

I have received your letter dated April 30, 2007. I disagree with the penalty (including interest) assessed for "reasonable cause". Because of the fact that the information on line 1 (Federal adjusted gross income) of the IL-1040 must come from the Federal 1040 form, the IL-1040 cannot be due before the Federal 1040 is filed. In other words, if no Federal 1040 is filed, the IL-1040 would not be required. So the IL-1040 would be due when and if a Federal 1040 is filed. My Federal 1040 for 2001 was filed on March 9, 2007 (see enclosed copy marked "received"). This would make the IL-1040 for 2004 [sic] due at the same time, which is when I did file it. For this reason, the Penalties and Interest should be removed.

Response

Section 505(a)(2) of the Illinois Income Tax Act (35 ILCS 5/505) provides:

individual, partnership and fiduciary returns shall be filed on or before the 15th day of the fourth month following the close of the taxable year, unless, subject to the provisions of Section 602, the Director grants an extension or extensions of time (not to exceed 6 months in the aggregate) for such filing, except that a final return of a decedent shall be filed at the time (including any extensions thereof) it would have been due if the decedent had not died.

Section 601(a) of the Illinois Income Tax Act (35 ILCS 5/601) provides:

Every taxpayer required to file a return under this Act shall, without assessment, notice or demand, pay any tax due thereon to the Department, at the place fixed for filing, on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return) pursuant to regulations prescribed by the Department.

Pursuant to these sections, your return for Illinois income tax for calendar year 2001 was due on April 15, 2002, unless you received an extension of time to file. However, payment of the full amount of tax due for 2001 was due on April 15, 2002, even if you received an extension of time to file your return at a later date. The Form IL-505-I, Automatic Extension Payment for Individuals, is provided for this purpose. Nothing in the law allows you to defer payment until you actually file a return, federal

or State. Accordingly, your letter states no basis for abating the penalty for failure to timely pay your liability.

For your information, there is no provision in the law for abating interest owed on a late payment of tax.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel – Income Tax